12. The Internet-based payment validation system of Claim 1 wherein the unique customer identifier is a driver's license number of a customer operating the customer computer.

13. The Internet-based payment validation system of Claim 1 wherein the unique customer identifier is selected from the group consisting of: a driver's license number, a phone number, a bank transit and routing number of an account of a customer operating the customer computer.

14. The Internet-based payment validation system of Claim 1 wherein the unique customer identifier is a combination of at least two of a driver's license number, a phone number, and a bank transit and routing number.

A marked-up version of the amended claims and new claims is enclosed herewith.

REMARKS

Claim Rejections--35 U.S.C. §112.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite based on the implicit characterization of values such as "price" as "probabilities". Applicant has amended Claim 2 in conformance with the examiner's proposed language that the statistical element is "based on a factor selected from the group consisting of...".

Claim Rejections--35 U.S.C. §102.

Claims 1-3 and 5-6 are rejected under 35 U.S.C. §102e as being anticipated by Rowney.

Claim 1

Applicant concurs generally with the Examiner's characterization of Rowney, however, Applicant believes the present invention differs significantly from Rowney both in structure and purpose as is now indicated in the amended Claim 1.

Rowney contemplates an Internet connection, for example, a "SET connection" between the merchant's "acquiring" bank and the customer's "issuing" bank. See generally, column 2, lines 45-54 indicating the necessity of communicating with the "bank or other financial institution that has responsibility of providing payment on behalf of the customer".

The present invention, by use of a statistical database, does not require information about the customer's financial situation such as would be known by the customer's bank. The present invention thus allows a third party, independent of the customer's bank, to provide useful guidance, allowing financial transactions in the absence of easy communication with the customer's bank. This is particularly important for checks where there is no electronic network that can provide 24 hour a day checking account balance information to merchants. It is also important for checks because checks are "demand deposit" accounts where the fact that there is money in a checking account today does not mean that a check clearing several days from that date will be honored. See the present application at page 3, lines 3-6.

Applicant has amended Claim 1 and thus those claims which depend on it, to clearly indicate that the direct payment is from funds held by a third party and that the processor computer, under its software programming, performs its task without communication with the third party. Thus the present invention provides practical direct payment for purchases over the Internet where the parties are geographically remote and do not have a preexisting relationship or even a history of previous business dealings.

Applicant has looked with great care at the examiner's citation in Rowney that the payment instruments could include a "check". This reference appears to be inconsistent with Rowney's reliance on an inter-bank communications system. Given further that this reference to "checks" occurs only once in the 158 columns of the Rowney patent and the lack of explanation in the Rowney patent as to how checks could be accommodated with the Rowney system, one must conclude either that Rowney is not enabling with respect to this aspect of the invention, or more likely, that when the customer selects payment by check, Rowney intends to indicate only that the merchant is informed that payment by check is desired and that the merchant and customer make separate arrangements for transmission of the check, for example, by mail.

Claim 2

With respect to Claim 2, Applicant disagrees with the Examiner's interpretation of Rowney with respect to the evaluation of credit risk. The phrase "credit risk" appears only twice in the 158 columns of Rowney outside of the claims and both occurrences are in the context of a certificate submitted by the customer's bank. Rowney clearly indicates that the transaction risk is determined by a financial institution that may authorize payment. See column 15, lines 11-17. Applicant could find no teaching in Rowney at column 41, lines 45

or 51 or, anywhere else, that the total price of the identified product, the price and timing of previous purchases of other products using the unique customer identifier, the type of identified product and the occurrence of any dishonored payment, associated with the previous transactions using the customer identify, are used by the customer's bank to deduce credit risk. To the contrary, implicit in Rowney is that the level of credit risk is deduced from an evaluation of the customer's assets such as is generally available from the customer's bank.

Applicant has added new Claims 8-10 incorporating each of these elements of the Markush group of Claim 2 into a separate claim.

Claim 3

With respect to Claim 3, Applicant acknowledges that check guaranteeing, when a merchant has face to face contact with a customer and a printed bank check in hand, is well known. However, there is no teaching suggestion or enabling description in the prior art for using the guarantee process to extend the use of checks to pay for items over the Internet where no physical check can change hands between the customer and the merchant.

Claim 6

With respect to Claim 6, the Applicant disagrees that Rowney teaches the use of a driver's license number, a phone number, a bank transit and routing number, or arbitrary personal identification number or a combination of all of the previous, as a unique customer identifier. Rowney teaches the use of these data fields in an application for a certificate that is issued by the customer's bank. There is no indication that this data is actually transmitted by the customer to the processor computer as claimed in the present invention to identify the customer. Instead, it would appear that this data is used by a certificate issuer to identify a customer and then the certificate issuer issues a public key (unrelated to the personal information on the application) that the consumer uses to validate his or her identity to other parties, including a merchant. This key constitutes a digital signature that the customer may sign to orders as described at column 135 lines 26-36. Thus, the required limitation of Claim 6, that there be a data structure matching a consumer identifier to at least one statistical element, is missing from Rowney. Rowney also teaches away from the present Internet transaction system by describing a certification process that requires this information to be transmitted via mail over the space of several days and then confirmed with telephone calls. See column 140, lines 31 to 49.

Applicant has added new Claims 11-14 incorporating each of these elements of the Markush group of Claim 6 into a separate claim.

Claim 7

With respect to Claim 7, as described with respect to Claim 6 above, there is no indication in Rowney that personal identifying information is transmitted to a processor computer as required by the present invention. Instead, Rowney contemplates such information provided by the customer to the customer's bank which has a preexisting contractual relationship with the customer and that the bank provides the customer with a digital signature used for validation with merchants. Applicant has conducted a text search of the Rowney application and cannot find the phrases "routing code" or "bank code" anywhere in the Rowney patent and thus disagrees with the Examiner's assertion that such teaching or suggesting can be found in Rowney.

In light of these remarks and comments, it is believed that Claims 1-14 are now in condition for allowance and allowance is respectfully requested.

Respectfully submitted,

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1. (amended) An Internet-based payment validation system comprising:

a merchant computer programmed to communicate with the Internet to create an Internet site listing products for sale and indicating a direct payment option from funds held by a third party;

a customer computer programmed to communicate on the Internet and to communicate with the merchant computer to identify the product desired to be purchased and to select the direct payment option, the customer computer further programmed to accept at least one unique customer identifier from a customer and communicate the same over the Internet; and

a processor computer programmed to receive [receiving] at least one customer identifier from the merchant computer in response to a selection of the direct payment option, the processor computer further including a data structure matching the customer identifier to at least one statistical element indicating a probability of a payment obligation by the customer being honored, and based on that matching statistical element and, without communication with the third party, transmitting to the merchant computer an authorization indication indicating whether direct payment for the product should be accepted.

2. (amended) The Internet-based payment validation system of Claim 1 wherein the statistical element is based on a factor selected from a group consisting of a total price of the identified product, the price and timing of previous purchases of other products using the unique customer identifier, the type of identified product and the occurrence of any dishonored payment associated with the previous transactions using the customer identifier.

3. (amended) The Internet-based payment validation system of Claim 1 wherein the authorization indication [is selected from the group consisting] provides the indication of not authorized, indicating that the acceptance of direct payment is not advised, authorized with no guarantee, indicating that the acceptance of direct payment is acceptably subject to the discretion of the merchant, and authorized with guarantee indicating that the amount of the direct payment will be guaranteed by an authority operating the processor computer.

8. (new) The Internet-based payment validation system of Claim 1 wherein the statistical element is based on a total price of the identified product.

9. (new) The Internet-based payment validation system of Claim 1 wherein the statistical element is based on the price and timing of previous purchases of other products using the unique customer identifier.

10. (new) The Internet-based payment validation system of Claim 1 wherein the statistical element is based on the occurrence of any dishonored payment associated with the previous transactions using the customer identifier.

11. (new) The Internet-based payment validation system of Claim 1 wherein the unique customer identifier is a driver's license number of a customer operating the customer computer.

12. (new) The Internet-based payment validation system of Claim 1 wherein the unique customer identifier is a driver's license number of a customer operating the customer computer.

13. (new) The Internet-based payment validation system of Claim 1 wherein the unique customer identifier is selected from the group consisting of: a driver's license number, a phone number, a bank transit and routing number of an account of a customer operating the customer computer.

14. (new) The Internet-based payment validation system of Claim 1 wherein the unique customer identifier is a combination of at least two of a driver's license number, a phone number, and a bank transit and routing number.